

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.38906 of 2016

M.Baskar

...Petitioner

Versus

1.The Principal Secretary to Government,
Energy Department,
Secretariat, Chennai - 600 009.

2.The Chairman and Managing Director,
TNEB, TN Generation and Distribution Corp. Ltd.,
No.144, Anna Salai, Chennai - 2.

3.The Chief Engineer,
TNEB, TN Generation and Distribution Corp. Ltd.,
No.144, Anna Salai, Chennai - 2.

4.The Superintending Engineer,
Chengalpattu Electricity Distribution Circle,
Chengalpattu.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the fourth respondent in proceedings Ka.No.004545/Ni.P3/உதவி/2015 dated 26.03.2015 and proceedings No.075767/339/G64/G642/2014-5 dated 20.10.2016 quash the same and consequently, direct the respondents 2 & 3 to consider the petitioner's application as per the direction of the first respondent.

For Petitioner : Mr.N.Subramani

For Respondent - 1 : Mrs.K.Bhuvaneswari,
Addl. Govt. Pleader

Respondents - 2 to 4 : Mr.P.R.Dhilip Kumar,

ORDER

The relief sought for in the present writ petition is to call for the records of the fourth respondent in proceedings Ka.No.004545/Ni.P3/உதவி/2015 dated 26.03.2015 and proceedings No.075767/339/G64/G642/2014-5 dated 20.10.2016 quash the same and consequently, direct the respondents 2 & 3 to consider the petitioner's application as per the direction of the first respondent.

2. The brief facts of the case are as follows:

The petitioner had completed Master of Engineering during July 2016. His father was worked as Line Inspector at Thirukalukundram in the fourth respondent office and retired on 05.08.2013 on medical invalidation grounds. On 21.11.2013, the petitioner applied for compassionate appointment in relevant post based on his educational qualification. He also submitted an Application seeking for compassionate appointment.

2.1 While so, the fourth respondent vide proceeding in Na.Ka.No.004545/Ni.P3/cjtp1/2015 dated 26.03.2015 rejected the request of the petitioner on the ground that his mother Tmt.Devaki is still working as part time Sweeper in TNEB from 1996.

2.2 The petitioner's mother is working at non-permanent post and her service is not regularized till date. As per G.O.Ms.No.40 dated 05.01.1990 Labour and Employment Department revealed that the non permanent employee's family can claim compassionate appointment. During the retirement of the petitioner's father, the petitioner's mother received only Rs.1,400/- as monthly salary. Subsequently, the petitioner made another representation dated 29.07.2016 seeking compassionate appointment. The first respondent vide proceeding dated 29.07.2016, directed the Secretary, TANGEDCO, Chennai to consider the petitioner's application since the petitioner's mother is a non permanent employee. Thereafter, the fourth respondent vide proceeding in No.075767/339/G64/G642/2014-5 dated 20.10.2016 rejected the petitioner's application for compassionate appointment. Hence, left with no other alternative, the petitioner has filed the present writ petition for the relief stated supra.

3. The respondents have filed the counter affidavit, wherein, they have stated as follows:

(i) The Application filed by the petitioner seeking for appointment on compassionate grounds was rejected for the reason that his mother Tmt.Devaki is working as Sanitary Worker in Chengalpattu Electricity Distribution Circle in the time scale of pay of Rs.1300-300+Rs.300/- and her total emoluments in the month of April 2016 is Rs.5,085/- and she is a permanent employee of TANGEDCO.

(ii) The petitioner's mother was initially appointed as part time contingent worker and absorbed into the TANGEDCO as regular employee in the time scale of pay as per the directions of the Hon'ble Supreme Court, vide Chairman/cum/Managing Director, TANGEDCO, Chennai proceeding (Per) (BP) TANGEDCO No.11 dated 02.08.2011, with retrospective effect from 2005 and the arrears were paid to her from 2005.

(iii) The application of the rules of the G.O.Ms.No.40 dated 05.01.1990 Labour and Employment Department does not arise in this case since the petitioner's mother was absorbed into regular service in the regular time scale of pay and she is enjoying all the benefits on par with regular employees.

(iv) The petitioner's elder brother Thiru.M.Mathivanan is also working as Field Assistant in the respondent department on permanent basis. Hence, the petitioner's application for compassionate appointment was rejected by the fourth respondent.

4. The learned counsel appearing for the respondents 2 to 4 would submit that the petitioner's father was retired from service on 05.08.2013 and now he is getting a monthly pension of Rs.9,563/- per month. He would further submit that the petitioner's family is not in indigent circumstances since both the petitioner's mother and brother are working as permanent employees in TANGEDCO. Hence, the petitioner's application for compassionate appointment was rejected by the fourth respondent. He therefore prayed that the present writ petition may be dismissed.

5. From a perusal of the materials available on record, it is crystal clear that the petitioner's father worked as Line Inspector at Thirukalukundram Construction Section, O/o the Superintending Engineer, Chengalpattu Electricity Division/Circle and retired from service on 05.08.2013. Subsequent to the retirement of petitioner's father, the petitioner submitted an application seeking for appointment on compassionate grounds in the TANGEDCO based on his educational qualification. It is also seen that already two members of the petitioner's family are working as permanent employees in TANGEDCO viz.,

(i) petitioner's mother Tmt.Devaki is working as Sanitary Worker in Chengalpattu Electricity Distribution Circle.

(ii) petitioner's brother Thiru.M.Mathivanan is working as Field Assistant.

Hence, the petitioner's application seeking for compassionate appointment was rejected by the fourth respondent.

6. Considering the facts and circumstances of the case, this Court is of the view that the fourth respondent had rightly rejected the petitioner's application for compassionate appointment. Though the petitioner completed Master of Engineering in Computer Science and Engineering, the respondent Department cannot appoint him on compassionate grounds since as per the rules and regulations of the TANGEDCO, appointment on compassionate grounds is given only to the family where nobody is employed in Government or quasi Government, Local Bodies,

Corporations etc., including the TANGEDCO. Hence, the relief sought for by the petitioner cannot be granted by this Court, since the petitioner's case deserves no merit of consideration.

7. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

mrr

To

- 1.The Principal Secretary to Government,
Energy Department,
Secretariat, Chennai - 600 009.
- 2.The Chairman and Managing Director,
TNEB, TN Generation and Distribution Corp. Ltd.,
No.144, Anna Salai, Chennai - 2.
- 3.The Chief Engineer,
TNEB, TN Generation and Distribution Corp. Ltd.,
No.144, Anna Salai, Chennai - 2.
- 4.The Superintending Engineer,
Chengalpattu Electricity Distribution Circle,
Chengalpattu.

+1cc to Mr.S.N.Subramani, Advocate, SR.No.97771.
+1cc to Mr.P.R.Dhilip Kumar, Advocate, SR.No.96836.
+1cc to Government Pleader, SR.No.97087.

W.P.No.38906 of 2016

BP (CO)
CSR: 18.02.2020

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